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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 ROBERT MITCHELL,

12 Plaintiff,

13 v.

14 ROBERT W. POWERS, PH.D., *et al*,

15 Defendants.
16

Case No. C09-5504RBL-KLS

ORDER GRANTING
PLAINTIFF'S MOTION TO
STRIKE AMENDED
COMPLAINT AND SUBSTITUTE
ORIGINAL COMPLAINT

17 This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. §
18 636(b)(1), Local Rules MJR 3 and 4, and Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 72. This
19 case is before the Court on plaintiff's filing of a motion to strike the amended complaint and substitute the
20 original complaint. (Dkt. #8). After reviewing plaintiff's motion, the original and the amended
21 complaints and the balance of the record, the Court finds and orders as follows:

22 On August 18, 2009, plaintiff filed his original complaint with the Court. (Dkt. #1). On
23 September 9, 2009, plaintiff filed an amended complaint, which – while naming different defendants and
24 setting forth different factual scenarios and legal claims – bore the same cause number as the original
25 complaint. (Dkt. #4). On September 23, 2009, the Court, noting that under Fed. R. Civ. P. 15(a) plaintiff
26 may amend his pleading once as a matter of course any time prior to service of a responsive pleading,
27 accepted for filing the amended complaint, and ordered service thereof on the defendants named therein.
28 (Dkt. #7).

1 On October 6, 2009, plaintiff filed his motion to strike the amended complaint, stating that it was
2 actually for another case he had, although he did not indicate what case that was. (Dkt. #8). It does
3 appear the amended complaint plaintiff filed in this case actually should have been filed by him under
4 Cause No. C09-5080BHS-JRC, Mitchell v. INI Gilbert, et al. Accordingly, the amended complaint (Dkt.
5 #4) hereby is STRICKEN from this matter. In addition, the Clerk hereby is directed to file a copy of that
6 complaint, along with a copy of this Order, in Cause No. C09-5080BHS-JRC.

7 As noted above, the Court already has ordered service of the summonses and amended complaint
8 on the defendants named in the amended complaint. That order shall remain valid and in effect, and the
9 Clerk hereby again is directed to file a copy of that order (Dkt. #7) in Cause No. C09-5080BHS-JRC.
10 The Clerk also is directed to file copies in Cause No. C09-5080BHS-JRC of all waiver and/or return of
11 service forms related to that order or to the amended complaint. In light of the foregoing, in regard to
12 proceedings in this matter, the Court further hereby orders that the original complaint (Dkt. #1) now be
13 substituted for the amended complaint, and will be treated as the only complaint in this matter. To the
14 extent discussed herein, therefore, plaintiff's motion to strike (Dkt. #8) hereby is GRANTED.

15 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants.

16 DATED this 23rd day of October, 2009.

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20 Karen L. Strombom
21 United States Magistrate Judge
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